

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

TOMMY J. FLORES,
Plaintiff,

vs.


Civ. No. 14-1120 KK/SCY

JUVENILE SUBSTANCE ABUSE CRISIS CENTER,
et al.,
Defendants.

PROPOSED FINDING AND RECOMMENDED DISPOSITION

THIS MATTER is before me on review of the record and on Plaintiff's May 18, 2015 letter to the Court (*Doc. 8*). Plaintiff filed the present action in this Court on December 10, 2014. *Doc. 1*. Because Plaintiff failed to serve Defendants within 120 days of filing, as required by Federal Rule of Civil Procedure 4(m), on April 17, 2015, the Court entered an order to show cause extending the deadline to serve Defendants until May 18, 2015. *Doc. 7*. The Court warned Plaintiff that failure to serve Defendants by May 18, 2015 or failure to file a motion by this date requesting additional time to effect service would result in the dismissal of his claims without prejudice. *Id.* In response to this order, Plaintiff filed a letter with the Court stating "at this point in time I do not have the resources or fund to continue with this action . . . therefore I respectfully ask that my action filed December 10, 2014 be held at this point in time." *Doc. 8*. It is unclear to the Court whether Plaintiff is asking for a dismissal of his claims without prejudice or an indefinite stay of the case. Federal Rule of Civil Procedure 4(m), however, precludes the entry of an indefinite stay. *See Fed. R. Civ. P. 4(m)* ("[i]f a defendant is not served within 120 days after the complaint is filed, the court--on motion or on its own after notice to the plaintiff--must dismiss the action without prejudice against that defendant or order that service be made within *a specified time*.") (emphasis

added). It is, therefore, my recommendation that the Court dismiss Plaintiff's claims without prejudice under Rule 4(m).


HONORABLE STEVEN C. YARBROUGH
United States Magistrate Judge

THE PARTIES ARE FURTHER NOTIFIED THAT WITHIN 14 DAYS OF SERVICE of a copy of these Proposed Findings and Recommended Disposition they may file written objections with the Clerk of the District Court pursuant to 28 U.S.C. § 636(b)(1). **A party must file any objections with the Clerk of the District Court within the fourteen-day period if that party wants to have appellate review of the proposed findings and recommended disposition. If no objections are filed, no appellate review will be allowed.**